

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
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YIEN-KOO KING,

Plaintiff,

-v-

ANDREW WANG, et al.,

Defendants.

14-cv-7694 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

The Court will hold a hearing, pursuant to Federal Rule of Evidence 104, on December 7, 2021, at 9:00 a.m., regarding the admissibility of the Artron and Artnet records.

At that hearing, the Court will also hear argument on the motion for reconsideration of the Court's Order at Dkt. No. 321 precluding the recovery of disgorgement for Plaintiff's violation of Federal Rule of Civil Procedure 26 and for insufficient notice. The parties should be prepared to address whether, notwithstanding the failure to request disgorgement in the complaint, Defendants had sufficient notice that Plaintiffs could seek to recover disgorgement and present arguments and evidence about unjust enrichment. *See, e.g.*, Dkt. No. 36 ¶¶ 4, 7, 110, 130; *see also Powell v. Nat'l Bd. of Med. Examiners*, 364 F.3d 79, 86 (2d Cir.), *opinion corrected*, 511 F.3d 238 (2d Cir. 2004) ("Under Rule 54(c) of the Federal Rules of Civil Procedure, a court can grant any relief to which a prevailing party is entitled, whether or not that relief was expressly sought in the complaint. The sole exception to this rule is where a court grants relief not requested and of which the opposing party has no notice, thereby prejudicing that party. In such case, unasked for relief should not be granted." (internal citations omitted)).

No further submissions will be entertained prior to the hearing.

SO ORDERED.

Dated: November 23, 2021  
New York, New York



LEWIS J. LIMAN  
United States District Judge